

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Philip G. Reinhard	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 50312	DATE	9/24/2002
CASE TITLE	U.S.A. vs. ANTONIO ANDRADE		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

**MOTION:**

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**DOCKET ENTRY:**

- (1)  Filed motion of [ use listing in "Motion" box above.]
  - (2)  Brief in support of motion due \_\_\_\_\_.
  - (3)  Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
  - (4)  Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
  - (5)  Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
  - (6)  Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
  - (7)  Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
  - (8)  [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
  - (9)  This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
  FRCP4(m)     General Rule 21     FRCP41(a)(1)     FRCP41(a)(2).
  - (10)  [Other docket entry] For the reasons stated on the reverse Memorandum Opinion and Order, Antonio Andrade's motion to modify or correct his sentence pursuant to 28 U.S.C. § 2255, motion for an evidentiary hearing, motion for expedited hearing and a request to this court to contact the Regional Director of the Bureau of Prisons are denied.
- (11)  [For further detail see order on the reverse side of the original minute order.]

<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	No notices required, advised in open court.	<i>Philip G. Reinhard</i> SEP 24 2002 date docketed 9-24-02 date mailed notice DW mailing deputy initials	Document Number  number of notices  <b>SEP 24 2002</b> date docketed  docketing deputy initials  9-24-02 date mailed notice  DW mailing deputy initials
	No notices required.		
	Notices mailed by judge's staff.		
	Notified counsel by telephone.		
	Docketing to mail notices.		
	Mail AO 450 form.		
	Copy to judge/magistrate judge.		
/SEC	courtroom deputy's initials	U.S. DISTRICT COURT CLERK 02 SEP 24 AM 11:41 Date/time received in central Clerk's Office	

## MEMORANDUM OPINION AND ORDER

Defendant, Antonio Andrade, has filed pro se a motion to modify or correct his sentence pursuant to 28 U.S.C. § 2255. He also has filed motions for an evidentiary hearing, an expedited hearing, and a request to this court to contact the Regional Director of the Bureau of Prisons. The government has responded. For the following reasons, the court denies all motions.

Andrade's § 2255 motion seeks clarification and modification of his sentence. But Andrade specifically waived his right to challenge his sentence or the manner in which it was determined through a collateral proceeding in his plea agreement. Where a defendant waives his right to attack his sentence by collateral relief, such a waiver will be enforceable unless the defendant shows that the waiver was not knowing and voluntary or establishes a claim of ineffective assistance of counsel in connection with the negotiations of the plea agreement or the waiver therein. See Mason v. United States, 211 F.3d 1065, 1069 (7<sup>th</sup> Cir. 2000), cert. denied, 531 U.S. 1175 (2001). Here, Andrade has not advanced any reason why the waiver rule should not be applied. In any event, Andrade's contentions in his § 2255 motion are meritless. The court's oral pronouncement of sentence and the written Judgment and Commitment Order are not at variance. Andrade's supervised release begins immediately after his release from the Bureau of Prisons and his home confinement is to be served during his supervised release. Defense counsel was not ineffective at sentencing for precisely the reasons set forth in the government's response brief and no further elaboration is necessary. There is no need for an evidentiary or expedited hearing. All relief is denied.

**United States District Court**  
**Northern District of Illinois**  
**Western Division**

United States of America

v.

Antonio Andrade

**JUDGMENT IN A CIVIL CASE**

Case Number: 02 C 50312

- Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.
- Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

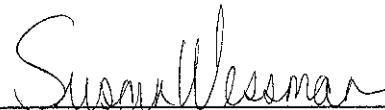
IT IS HEREBY ORDERED AND ADJUDGED that Antonio Andrade's motion to modify or correct his sentence pursuant to 28 U.S.C. § 2255, motion for an evidentiary hearing, motion for expedited hearing and a request to this court to contact the Regional Director of the Bureau of Prisons are denied.

U.S. DISTRICT COURT  
CLERK

02 C 50312-1  
MILLI

FEB 24 2002  
CLERK

Michael W. Dobbins, Clerk of Court



Susan M. Wessman, Deputy Clerk

Date: 9/24/2002